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CHAPTER Env-Wq 600 SELECTION OF CONSULTING ENGINEERING FIRMS

REVISION NOTE:

Document #8566, effective 2-9-06, readopted with amendments and redesignated former Chapter Env-Ws 600 titled Selection of Consulting Engineering Firms as Env-Wq 600 pursuant to a rules reorganization plan for Department rules approved by the Director of the Office of Legislative Services on 9-7-05.

The prior filings for former Env-Ws 600 include the following documents:

##220.5 filed 12-27-73, as in effect 8-31-73 under 1973, 507:4  
#2238, eff 12-31-82  
#2406, eff 6-28-83  
#2851, eff 9-21-84, EXPIRED 9-21-90  
#5315, eff 1-27-92, EXPIRED 1-27-98  
#6696, eff 2-25-98

PART Env-Wq 601 PURPOSE AND APPLICABILITY

Env-Wq 601.01 Purpose. The purpose of the rules in chapter Env-Wq 600 is to:

- (a) Provide consulting engineering firms with the requirements for eligibility and listing as prequalified on the roster of prequalified consulting engineering firms maintained by the department; and
- (b) Specify the procedures for contracting with prequalified consulting engineering firms for engineering services for water supply and water pollution control projects that receive state or federal financial assistance.

Source. (See Revision Note at chapter heading for Env-Wq 600)  
#8566, eff 2-9-06 (formerly Env-Ws 601.01)

Env-Wq 601.02 Applicability. The rules in Env-Wq 600 shall apply to:

- (a) All consulting engineering firms that wish to become prequalified and listed on the roster of prequalified consulting engineering firms as maintained by the department; and
- (b) All government subdivisions that wish to solicit proposals for engineering services for water supply and water pollution control projects that receive state or federal financial assistance, other than water supply projects at systems that are rated at 20,000 gallons per day or less or that serve fewer than 50 service connections.

Source. (See Revision Note at chapter heading for Env-Wq 600)  
#8566, eff 2-9-06 (formerly Env-Ws 601.02)

PART Env-Wq 602 DEFINITIONS

Env-Wq 602.01 “Board” means the board of professional engineers established by RSA 310-A:3.

Source. (See Revision Note at chapter heading for Env-Wq 600)  
#8566, eff 2-9-06 (formerly Env-Ws 601.03)

Env-Wq 602.02 “Client” means any governmental subdivision.

Source. (See Revision Note at chapter heading for Env-Wq 600)  
#8566, eff 2-9-06 (formerly Env-Ws 601.03)

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Env-Wq 602.03 “Consulting engineering firm” means an individual, partnership, corporation, or other business entity registered with the New Hampshire department of state and the board to conduct an engineering services business in the state.

Source. (See Revision Note at chapter heading for Env-Wq 600)  
#8566, eff 2-9-06 (formerly Env-Ws 601.03)

Env-Wq 602.04 “Debarment” means preclusion or removal from the roster of prequalified consulting engineering firms.

Source. (See Revision Note at chapter heading for Env-Wq 600)  
#8566, eff 2-9-06 (formerly Env-Ws 601.03)

Env-Wq 602.05 “Department” means the department of environmental services.

Source. (See Revision Note at chapter heading for Env-Wq 600)  
#8566, eff 2-9-06 (formerly Env-Ws 601.03)

Env-Wq 602.06 “Director” means the director of the water division of the department.

Source. (See Revision Note at chapter heading for Env-Wq 600)  
#8566, eff 2-9-06 (formerly Env-Ws 601.03)

Env-Wq 602.07 “Engineering service project list” means the list derived from the roster for a specific project pursuant to Env-Wq 604.04.

Source. (See Revision Note at chapter heading for Env-Wq 600)  
#8566, eff 2-9-06 (formerly Env-Ws 601.03)

Env-Wq 602.08 “Engineering services” means the report preparation, technical design, construction administration and resident engineering work which requires the services of a licensed professional engineer.

Source. (See Revision Note at chapter heading for Env-Wq 600)  
#8566, eff 2-9-06 (formerly Env-Ws 601.03)

Env-Wq 602.09 “Governmental subdivision” means a municipality, county, water district, sewer district, or other state-recognized self-governing body.

Source. (See Revision Note at chapter heading for Env-Wq 600)  
#8566, eff 2-9-06 (formerly Env-Ws 601.03)

Env-Wq 602.10 “New listing” means the inclusion on the roster of a firm that is not on the roster as of the date of the application, regardless of whether the firm has been on past rosters.

Source. (See Revision Note at chapter heading for Env-Wq 600)  
#8566, eff 2-9-06 (formerly Env-Ws 601.03)

Env-Wq 602.11 “Principal of the applicant” means:

- (a) For a sole proprietorship, the individual whose business it is;
- (b) For a general or limited partnership, one of the general partners;
- (c) For a corporation, including limited liability corporations and professional corporations, the president or a vice president; and

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(d) For any other business entity, the individual who has controlling authority or is otherwise equivalent to the chief executive officer.

Source. (See Revision Note at chapter heading for Env-Wq 600)  
#8566, eff 2-9-06 (formerly Env-Ws 601.03)

Env-Wq 602.12 “Professional competence” means that at least one individual who is a principal of the applicant meets all of the following criteria:

- (a) Has at least 5 years of experience in the category/ies for which prequalification is sought;
- (b) In the last 5 years, has not been subject to disciplinary action by the board for conduct or activities arising from the applicant’s work on projects in the category/ies for which prequalification is sought;
- (c) Has not provided any false or misleading information on the prequalification listing application as specified in Env-Wq 603.02 or the engineer questionnaire form as specified in Env-Wq 603.03;
- (d) In the last 5 years, has not failed to appoint a qualified project engineer for the management of a water supply or pollution control project;
- (e) In the last 5 years, has not failed to fulfill the terms of an engineering services contract;
- (f) In the last 5 years, has not engaged in unethical conduct as defined by the rules of conduct of the board;
- (g) Has submitted all required renewal fees and updated engineer questionnaire forms;
- (h) Is not the subject of a pending enforcement action taken by the department or by the NH department of justice; and
- (i) Has complied with all terms and conditions of any orders, settlement agreements, consent decrees, or other similar documents issued by the department or resulting from an action initiated by the department or by the NH department of justice.

Source. (See Revision Note at chapter heading for Env-Wq 600)  
#8566, eff 2-9-06 (formerly Env-Ws 601.03)

Env-Wq 602.13 “Qualified project engineer” means an individual who:

- (a) Holds a bachelor’s degree or higher in engineering;
- (b) Is a professional engineer with a civil or sanitary engineering designation licensed by the board; and
- (c) Has one of the following:
  - (1) At least 7 years of applicable experience;
  - (2) A bachelor’s degree in engineering; plus one year of graduate study in engineering and 6 years of applicable experience; or
  - (3) A bachelor’s degree in engineering plus 2 years of graduate study in engineering and 5 years of applicable experience.

Source. (See Revision Note at chapter heading for Env-Wq 600)  
#8566, eff 2-9-06 (formerly Env-Ws 601.03)

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Env-Wq 602.14 “Renewal” means the inclusion on the roster of a firm that is on the roster as of the date of the renewal submittal.

Source. (See Revision Note at chapter heading for Env-Wq 600)  
#8566, eff 2-9-06 (formerly Env-Ws 601.03)

Env-Wq 602.15 “Resident engineer” means an engineer:

- (a) Who is licensed by the board with a civil or sanitary engineering designation;
- (b) Who has at least 3 years of relevant experience in the construction inspection and oversight of water supply or water pollution control projects; and
- (c) Whose work address is at the project site.

Source. (See Revision Note at chapter heading for Env-Wq 600)  
#8566, eff 2-9-06 (formerly Env-Ws 601.03)

Env-Wq 602.16 “Roster” means the list of prequalified consulting engineering firms maintained by the department that shows the particular category for which the consulting engineering firm is prequalified.

Source. (See Revision Note at chapter heading for Env-Wq 600)  
#8566, eff 2-9-06 (formerly Env-Ws 601.03)

### PART Env-Wq 603 ROSTER: INITIAL LISTING; RENEWAL; DEBARMENT

Env-Wq 603.01 Requirements for New Listing. An applicant for a new listing shall submit the following to the department:

- (a) A set of plans, specifications, and reports related to a successfully-completed project in the category for which the applicant is applying;
- (b) As required by RSA 485-A:4, XIII, an application fee of \$200, by cash or check payable to “Treasurer, State of New Hampshire”;
- (c) The original and 4 copies of a completed prequalification application as specified in Env-Wq 603.02;
- (d) The original and 4 copies of a completed engineer questionnaire as specified in Env-Wq 603.03; and
- (e) A copy of the certificate of registration issued by the New Hampshire department of state and the certificate of registration issued by the board permitting the firm to practice and transact business in New Hampshire.

Source. (See Revision Note at chapter heading for Env-Wq 600)  
#8566, eff 2-9-06 (formerly Env-Ws 601.05)

Env-Wq 603.02 Prequalification Application Form.

(a) The applicant shall provide the following information on a prequalification application form provided by the department:

- (1) The name of the consulting engineering firm;
- (2) The category, as listed in Env-Wq 603.10(b), for which the consulting engineering firm desires to be prequalified;

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(3) For each principal or employee of the applicant who is qualified to be a qualified project engineer, the following information:

- a. The name, title, and New Hampshire professional engineer registration number of the engineer; and
- b. The number of years of relevant experience of the engineer; and

(4) Subject to (b), below, for the project represented by the plans, specifications, and reports submitted pursuant to Env-Wq 603.01(a), the:

- a. Location of the project;
- b. Type of project;
- c. Year completed; and
- d. Construction cost of the project.

(b) The department shall accept the information specified in (a)(4), above, for one or more projects not related to the project submitted pursuant to Env-Wq 603.01(a) if the applicant demonstrates that the information on the project submitted is not available due to the work having been done by a firm with which the applicant is no longer associated.

Source. (See Revision Note at chapter heading for Env-Wq 600)  
#8566, eff 2-9-06 (formerly Env-Ws 601.05)

Env-Wq 603.03 Engineer Questionnaire. The applicant for a new listing or for renewal shall provide the following information on an engineer questionnaire form provided by the department:

- (a) The name, mailing address, and daytime telephone number of the applicant and, if available, a fax number and e-mail address;
- (b) The type of business entity and the year in which the organization was established;
- (c) The name of any parent company and the former name(s) of the applicant, if any;
- (d) The name(s) of the principal(s) of the applicant and a listing of the educational and engineering background(s) of each principal;
- (e) The name(s) of the associate(s) of the applicant and a listing of the educational and engineering background(s) of each associate;
- (f) A list of the current project activities for which the applicant is the designated engineer of record;
- (g) A list of the current project activities on which the applicant is working in association with others;
- (h) The number of employees of the applicant; and
- (i) A list of all projects completed by the applicant in the category of prequalification desired.

Source. (See Revision Note at chapter heading for Env-Wq 600)  
#8566, eff 2-9-06 (formerly Env-Ws 601.05)

Env-Wq 603.04 Signatures Required.

- (a) The applicant shall sign the application form and the engineer questionnaire.
- (b) The signatures shall constitute certification that:
  - (1) The information provided is true, complete, and not misleading to the knowledge and belief of the signer;
  - (2) The signer understands that any roster listing based on false, incomplete, or misleading information shall be subject to debarment; and
  - (3) The consulting engineering firm agrees to abide by the provisions of Env-Wq 600, selection of consulting engineering firms.

Source. (See Revision Note at chapter heading for Env-Wq 600)  
#8566, eff 2-9-06 (formerly Env-Ws 601.05)

Env-Wq 603.05 Review of Application for New Listing.

- (a) Each application for a new listing shall be reviewed by the department.
- (b) Each applicant for a new listing shall be interviewed by the department to review the application and the information provided.
- (c) The department shall approve the application for a new listing if, based on the information provided as required by Env-Wq 603.01, the applicant demonstrates professional competence in the category/ies for which prequalification is sought.

Source. (See Revision Note at chapter heading for Env-Wq 600)  
#8566, eff 2-9-06 (formerly Env-Ws 601.06)

Env-Wq 603.06 Written Response.

- (a) The department shall notify the applicant for a new listing in writing of its decision on the application within 30 days of receiving a complete application.
- (b) If the department denies the application, the written notice shall specify the reason(s) for the decision.

Source. (See Revision Note at chapter heading for Env-Wq 600)  
#8566, eff 2-9-06 (formerly Env-Ws 601.07)

Env-Wq 603.07 Renewal.

- (a) In order to remain on the roster, a prequalified consulting engineering firm shall submit to the department, by October 31 of each year following the initial year of listing on the roster:
  - (1) The \$50 fee required by RSA 485-A:4, XIII, by cash or check payable to “Treasurer – State of New Hampshire”; and
  - (2) An updated engineer questionnaire as specified by Env-Wq 603.03 that has been signed in accordance with Env-Wq 603.04.
- (b) The department shall continue to include the firm on the roster if:
  - (1) The applicant has complied with (a), above; and

(2) The department is not aware of any basis for debarment as specified in Env-Wq 603.08(a).

(c) If the department becomes aware of any basis for debarment as specified in Env-Wq 603.08(a) after receiving a renewal submittal, the department shall notify the firm of the basis for debarment by commencing a proceeding under Env-Wq 603.08.

Source. (See Revision Note at chapter heading for Env-Wq 600)  
#8566, eff 2-9-06 (formerly Env-Ws 601.11)

Env-Wq 603.08 Debarment.

(a) Any listing on the roster shall be based on the presumption that the information submitted to obtain the listing is true, complete, and not misleading and that the firm meets the criteria for professional competence as specified in Env-Wq 602.12.

(b) If, after listing a consulting engineering firm on the roster, the department receives information indicating that the information upon which the listing was based was false, incomplete, or misleading or that the firm no longer meets the criteria of Env-Wq 602.12, the department shall provide notice to the firm as required by RSA 541-A:31, III of a hearing at which the firm shall be given an opportunity to show cause why the firm should not be removed from the roster.

(c) The hearing shall be conducted in accordance with RSA 541-A:31 and the provisions of Env-C 200 relating to adjudicative proceedings.

(d) After the hearing, the department shall remove the consulting engineering firm from the roster if the department determines that:

(1) The firm would not have been listed on the roster if the information submitted had been true, complete, and not misleading; and

(2) The firm cannot cure the deficiencies so as to conform to applicable requirements.

(e) After the hearing, the department shall suspend the listing if the department determines that:

(1) The firm would not have been listed on the roster if the information submitted had been true, complete, and not misleading; and

(2) The firm can cure the deficiencies so as to conform to applicable requirements.

(f) The department shall notify the firm in writing of its decision. If the decision is to suspend, revoke, or refuse to continue the listing, the department shall specify the reason(s) for the decision.

(g) If a listing is suspended pursuant to (e), above, the department shall reinstate the firm on the roster upon receiving proof from the firm that the deficiencies have been cured.

Source. (See Revision Note at chapter heading for Env-Wq 600)  
#8566, eff 2-9-06 (formerly Env-Ws 601.08)

Env-Wq 603.09 Right of Appeal. Any consulting engineering firm whose application for a new listing is denied or that is removed from the list pursuant to Env-Wq 603.08 may appeal the decision to the water council by filing an appeal in accordance with Env-WC 200.

Source. (See Revision Note at chapter heading for Env-Wq 600)  
#8566, eff 2-9-06 (formerly Env-Ws 601.09)



Env-Wq 603.10 Roster.

(a) The department shall publish a roster of the names of prequalified consulting engineering firms at least twice each year.

(b) The roster shall list the consulting engineering firms categorized into one of the following 4 categories:

- (1) Category 1, comprising all consulting engineering firms prequalified with expertise in water supply engineering, including water treatment;
- (2) Category 2, comprising all consulting engineering firms prequalified with expertise in water pollution control engineering, including wastewater treatment;
- (3) Category 3, comprising all consulting engineering firms prequalified with expertise in water or wastewater piping systems, including pumping; and
- (4) Category 4, comprising all consulting engineering firms prequalified with expertise in all of the foregoing 3 categories.

Source. (See Revision Note at chapter heading for Env-Wq 600)  
#8566, eff 2-9-06 (formerly Env-Ws 601.10)

PART Env-Wq 604 PROCUREMENT OF ENGINEERING SERVICES FOR CERTAIN PROJECTS

Env-Wq 604.01 Purpose. The purpose of this part is to describe the required procedures for procuring engineering services for water supply and water pollution control projects involving state or federal grants or state loans as described in Env-Wq 601.02(b).

Source. (See Revision Note at chapter heading for Env-Wq 600)  
#8566, eff 2-9-06 (formerly Env-Ws 602.01)

Env-Wq 604.02 Eligibility for Funding.

(a) Subject to (b), below, in order to receive funding from the State of New Hampshire or the U.S. Environmental Protection Agency (EPA) for engineering services for water supply and water pollution control projects, the client shall contract only with a consulting engineering firm that:

- (1) Is listed on the roster; and
- (2) Was selected based on its qualifications.

(b) In the case of public water supply projects, the requirement specified in (a), above, shall apply only to systems that are rated at more than 20,000 gallons per day or that serve 50 or more service connections.

Source. (See Revision Note at chapter heading for Env-Wq 600)  
#8566, eff 2-9-06 (formerly Env-Ws 601.04)

Env-Wq 604.03 Solicitation of Proposals.

(a) Prior to soliciting proposals, the client shall submit to the department:

- (1) A copy of its request for proposals (RFP) for a particular water supply or water pollution control project; and

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(2) A request for a list of names of consulting engineering firms on the roster that are qualified for the proposed project.

(b) The client shall solicit a proposal from at least 3 consulting engineering firms.

Source. (See Revision Note at chapter heading for Env-Wq 600)  
#8566, eff 2-9-06 (formerly Env-Ws 602.03)

Env-Wq 604.04 Selection of a Consulting Engineering Firm. Following receipt of proposals, the client shall:

(a) Arrange to interview at least 3 of the responding consulting engineering firms to discuss the details of the proposal and other information such as:

- (1) Experience with similar projects which have been successfully completed;
- (2) Current workload and availability of personnel to be assigned to the project;
- (3) References from clients with completed projects; and
- (4) List of intended subcontracted professional services;

(b) Rate the consulting engineering firms in order of preference based on their respective qualifications to undertake the work and list the factors used in making the choices;

(c) Inform the department in writing of:

- (1) The name of the consulting engineering firm selected by the client;
- (2) The names of the client's second and third choices;
- (3) Details of the selected proposal; and
- (4) Estimated dates for project commencement and completion;

(d) Inform the selected consulting engineering firm in writing:

- (1) That the department has been informed of the firm's selection by the client;
- (2) That the department will be reviewing the process by which the client selected the firm to determine whether the requirements of Env-Wq 604 have been met; and
- (3) Of the final terms of the proposal;

(e) Send a copy of the notification required by (d), above, to the department;

(f) Negotiate the proposed fee with the selected consulting engineering firm; and

(g) Repeat steps (a) through (f), above if the interviews with the rated consulting engineering firms fail to result in the selection of a consulting engineering firm.

Source. (See Revision Note at chapter heading for Env-Wq 600)  
#8566, eff 2-9-06 (formerly Env-Ws 602.04)

Env-Wq 604.05 Final Terms for Engineering Services Contracts and Contract Revisions.

(a) On receipt of the draft engineering services contract from the client, the department shall review the recommended engineering services contract.

(b) After department's review of the recommended contract, it shall inform the selected consulting engineering firm and the client in writing of any comments regarding the proposed work and fee, based on the department's knowledge of work and fees for comparable projects in the state.

(c) The client shall submit to the department for review any revisions to the contract made subsequent to acceptance.

(d) In order for costs to remain eligible for funding from the State of New Hampshire or EPA, the contract and any subsequent revisions shall be subject to negotiated changes if the department determines that the terms would result in excessive payments to the firm based on a comparison of the subject terms with the terms of contracts for comparable projects in the state.

(e) The final contract shall be approved for execution using the contract form provided by the department and shall be signed by the client, selected consulting engineering firm and the director or designee.

Source. (See Revision Note at chapter heading for Env-Wq 600)  
#8566, eff 2-9-06 (formerly Env-Ws 602.05)

Env-Wq 604.06 Consulting Engineering Firm Status During Project Construction Phase and Requirements for Resident Engineer Supervision.

(a) After the contract for engineering services has been signed by the client and the consulting engineering firm, the firm shall act as the agent for the client in all matters related to the project which also involve the department.

(b) Engineering services contracts for the construction phase of a project shall require that a resident engineer shall assure that the project meets the plans, technical specifications, and agreement for construction of the project.

(c) The consulting engineering firm shall notify the department in writing of the name of the resident engineer and all assistant engineers and construction inspectors, together with a brief history of the resident engineer's construction experience.

(d) The consulting engineer firm shall notify the department of any request for a change or any actual change of resident engineer by submitting the name and qualifications of the proposed new resident engineer in writing to the department.

(e) The department shall approve the change if the proposed new resident engineer meets the criteria specified in Env-Wq 602.15.

(f) The department shall notify the firm of its decision on the proposed new resident engineer:

(1) By telephone, e-mail, or fax, as soon as practicable; and

(2) If the initial notice was by telephone, by sending written confirmation within 30 days of receiving the written notification from the firm.

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(g) If the department does not approve the proposed resident engineer, the notice provided pursuant to (f), above, shall specify the reason(s) for the decision.

Source. (See Revision Note at chapter heading for Env-Wq 600)  
#8566, eff 2-9-06 (formerly Env-Ws 602.06)

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**Appendix**

<b>Rule Section(s)</b>	<b>State Statute(s) Implemented</b>
Env-Wq 601 - 604	RSA 485-A:4, XIII